



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,183	08/29/2005	Jeremy Bowman	09294-021US1	3481

26161 7590 02/18/2011
FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER

HOOK, JAMES F

ART UNIT	PAPER NUMBER
----------	--------------

3754

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

02/18/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary	Application No. 10/525,183	Applicant(s) BOWMAN, JEREMY	
	Examiner James F. Hook	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 11-15, 17, 18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) 17, 18 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 11-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jarvenkyla (GB'138 and GB'137). In view of Suzuki and the teachings of Dries. The references to Jarvenkyla disclose an inner core layer formed of polyethylene, an outer skin layer of a polypropylene copolymer, and an adhesive layer to connect the two such that the skin layer can be removed cleanly and completely from the core tube layer. The references to Jarvenkyla disclose all of the recited structure with the exception of the specific amount of adhesion and thickness of the inner bonding layer, however, such are considered to be merely choices of mechanical expedients where one skilled in the art would only require routine experimentation to arrive at optimum values. It would have been obvious to modify the inner bonding layer of Jarvenkyla (GB 137 and GB 138) to be formed of any thickness and amount of bonding strength as such are merely choices of mechanical expedients where one skilled in the art would

Art Unit: 3754

only require routine experimentation to arrive at optimum values to improve the adhesion and holding of the bonding layer to prevent failure of such.

The references to Jarvenkyla disclose all of the recited structure with the exception of using propylene that is a block copolymer and a random copolymer for the propylene used for the skin layer and adhesive layer respectively. The reference to Suzuki discloses that it is old and well known in the art to form propylene layers of a skin layer of a pipe of propylene that can be block copolymers and adhesive layers to adhere them formed from random copolymers thereby teaching a known equivalent material form of polypropylene known to be used for such coating systems. It would have been obvious to one skilled in the art to modify the skin layer of Jarvenkyla (GB 137 and GB 138) to be formed of any known equivalent form of polypropylene including block copolymers and random copolymers as such are known forms of polypropylene that are equivalent and used in coating skin systems as suggested by Suzuki where such are known equivalent materials used for the same type of layer in the art and would provide different amounts of adhering features to meet the needs of the user when the amount of adhering is important. The reference to Dries discloses that it is old and well known in the art that when polyethylenes are used as a base layer and coating layers are provided that are intended to be peeled, that polypropylene random copolymers can be used to achieve a peelable skin layer thereby teaching that random copolymers are in fact peelable adhesives, especially when used on cores of polyethylene. Therefore, Dries provides support and teaching that these types of

Art Unit: 3754

coating systems using polypropylene random copolymers for adhesives can in fact be used as a peelable adhesive for a skin layer provided on a core of polyethylene.

Response to Arguments

Applicant's arguments filed November 29, 2010 have been fully considered but they are not persuasive. With regards to the Jarvenkyla references, they state that it is desired that the adhesive come off with the outer layer and therefore they clearly inherently are teaching the differential adhesion because the adhesive would have to stick more to the outer layer than the inner core or else it would not remove cleanly with the outer layer, and the recitation in the references that residue can be left is an alternate embodiment as set forth by the phrase "or alternatively" on page 15 of the '138 reference for example. Therefore it is considered that the Jarvenkyla references are in fact teaching that the adhesive will remain on the outer layer and not stick to the inner core. With respect to Suzuki, such does not require the coating be permanent, and an easy peel would help with repair, however, the reference is used to teach known polypropylene coating materials used on pipes and the Dries reference teaches that these types of polypropylenes are known to be easily peeled from base polyethylene materials, thereby teaching that it is known to use this type of material as a removable coating on a polyethylene material which teaches that the coating system used in Suzuki when modifying the coating system of the Jarvenkyla references to be formed of a specific type of polypropylene that is a known coating that can be peeled is taught by Dries. There are no specific arguments as to why Suzuki teaches away from a

Art Unit: 3754

removable layer, especially when such is used to show an equivalent form of polypropylene that is used as outer coatings of pipes, where the Javenkyla references already teach using an easily peeled polypropylene material but is not specific on what type, and Suzuki teaches old and known types of coatings and Dries further teaches that these very materials are known to have easily peeled properties especially when attached to polyethylene bases. With respect to Dries, this reference is teaching that certain materials are easily peeled with respect to others, such as specific types of polypropylene and polyethylene, and one skilled in the art trying to ascertain an acceptable adhesive to use to achieve the easily peeled properties that Jarvenkyla is seeking would look to a reference that teaches materials that are used in easily peeled situations, regardless of what intended use they are for. With respect to where Dries teaches polyethylene, in column 3, line 59 to column 4, line 38 it is discussed that the materials used for the opaque base layer which is the layer from which the film layer peels, includes polyethylene in column 4, lines 33-38, and this is the material from which the outermost peeled layer peels from where these layers are discussed in more detail layer in the reference such as column 6, and column 7 lines 30-49 even discusses the surprising peel results thereby suggesting that the use of these types of materials for their known ability to be easily peeled is old and known in the art as set forth by Dries.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3754

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James F. Hook/
Primary Examiner, Art Unit 3754

JFH